

KEYWORD: Alcohol

DIGEST: Applicant has mitigated security concerns about his alcohol-related arrests in college and provided evidence that he has reformed his conduct. He now curtails his drinking and is changing his lifestyle. He performs well on the job without any evidence of recurrence of an alcohol problem. Clearance is granted.

CASENO: 03-22671.h1

DATE: 08/17/2005

DATE: August 17, 2005

---

In Re:

-----  
SSN: -----

Applicant for Security Clearance

---

ISCR Case No. 03-22671

**DECISION OF ADMINISTRATIVE JUDGE**

**KATHRYN MOEN BRAEMAN**

**APPEARANCES**

**FOR GOVERNMENT**

Eric H. Borgstrom, Esquire, Department Counsel

## FOR APPLICANT

*Pro Se*

### SYNOPSIS

Applicant has mitigated security concerns about his alcohol-related arrests in college and provided evidence that he has reformed his conduct. He now curtails his drinking and is changing his lifestyle. He performs well on the job without any evidence of recurrence of an alcohol problem. Clearance is granted.

### STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on September 2, 2004. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. <sup>(1)</sup> The SOR alleged specific concerns over alcohol consumption (Guideline G) in paragraph 1. Applicant responded to these SOR allegations in an Answer notarized on September 20, 2004, where he admitted all of the allegations and requested a hearing.

Department Counsel on January 4, 2005, indicated the case was ready to proceed. The matter was assigned to me on January 5, 2005. Subsequently, a mutually convenient date for hearing was agreed to. A Notice of Hearing, issued on February 25, 2005, set the matter for March 16, 2005, at a location near where Applicant works and lives.

At the hearing the Government offered two exhibits which were admitted into evidence. (Exhibits 1-2) Applicant testified and was allowed two weeks after the hearing until March 30, 2005, to submit additional evidence. The Government had until April 1, 2005, to submit comments. (TR 15-16; 25-26) On March 17, 2005, Applicant submitted Exhibit A; on March 28, 2005, he submitted Exhibit B; and on March 30; 2005, he submitted Exhibit C. On April 4, 2005, Government's counsel indicated he had no objection to the documents, so Exhibits A, B, & C were admitted into evidence; and the record closed. The transcript (TR) was received on March 24, 2005.

### **FINDINGS OF FACT**

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following Findings of Fact:

Applicant, 28 years old, worked for a defense contractor (Employer #1) in State #1 from October 2002 until he was laid off in April 2004. He completed a Security Clearance Application (SF 86) in February 2003. (Exhibit 1; TR 12-13, 18, 20-21) Because of the delay in having his security clearance approved, he left that job and began work at a new company (Employer #2) in November 2004. For the current job he does not need a security clearance, but he would need one if he were to go back to work for his first employer. (TR 12, 19, 21-22) Applicant graduated from college with a B.A. in May 2002. He is single. (Exhibit 1; TR 11-12)

### **Alcohol**

In September 2003, Applicant reported on the frequency of his drinking: he began to drink in high school at graduation parties where he had one to two beers. In his first year in college, he drank one to two times monthly and consumed six or seven beers on each occasion. In his second year, he drank one to two times weekly and consumed ten to twelve beers at each party. In his junior year, he began to drink more, usually one night during the week and on the weekends he would consume ten to twelve beers on each occasion. (Exhibit 2) Applicant at times drank to excess and had two alcohol-related arrests on the college campus:

In May 1999 Applicant was arrested for Disorderly Conduct Hazardous/Physically Offensive and issued a citation where he plead guilty in May 1999 and paid a fine of \$125. Prior to the arrest he had consumed alcohol at a number of parties celebrating the end of the school year. (Answer; Exhibits 1, 2; TR 15-16)

In April 2001 Applicant was arrested for Harassment/Strike, Shove, Kick. When he left a party where he had consumed alcohol, he had made some jokes that another person took the wrong way. Consequently, that other individual punched

Applicant in the back of the head and in the face. Applicant was bleeding profusely and was taken to a medical facility. Because the stories were incompatible, citations were issued against both parties. Applicant's charge was later dismissed. (Answer; Exhibits 1, 2; TR 16-17)

After he moved off campus his senior year, Applicant drank only on the weekends when he consumed ten to twelve beers. After college he lived at home and consumed two or three beers several times weekly at home. After he got a job in October 2002, he drink only on the weekend two to three beers if he was driving and five to six beers if he was not. (Exhibit 2; TR 14)

After Applicant lost his job because his past alcohol-related arrests had delayed his security clearance, he has decreased the amount he drinks. (TR 11, 14; 21-22) Also, Applicant has a girlfriend who does not like drinking. However, he still drinks three to four beers when he goes out. (TR 14, 17) As he matures, Applicant is "weaning" himself away from the lifestyle he used to have. (TR 19)

### **References**

Applicant's technical supervisor at Employer #1 stated that Applicant maintained an elevated level of responsibilities at work. He never came to work intoxicated or became intoxicated during work hours. (Exhibit A)

Applicant's supervisor at Employer #1 stated th he directly supervised Applicant from October 2002 to April 2004. Applicant functioned at a high level in the day-to-day production activities assigned to him. He had no attendance or tardiness issues; he never came to work under the influence of alcohol or became intoxicated during work hours. He was an excellent employee at all times and demonstrated professionalism. (Exhibit B)

Applicant's college friend who has known him for six years and who now shares an apartment with him confirmed that Applicant has substantially lessened his drinking. Applicant now drinks a few drinks once or twice a month. (Exhibit C)

### **POLICIES**

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant Adjudication Guidelines as set forth below:

### **Guideline G --Alcohol Consumption**

**Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.**

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

### **CONCLUSIONS**

#### **Alcohol Consumption**

The Government established security concerns over Applicant's two alcohol-related arrests in 1999 and 2001 when he was in college. Thus, Applicant's conduct falls within DC 1: Alcohol-related incidents away from work. . . . Applicant has never been diagnosed with an alcohol abuse problem.

However, Applicant mitigated these security concerns as Applicant provided evidence to demonstrate that he falls within several mitigating conditions: (2) The first arrest in 1999 while he was in college occurred over five years ago; the more recent college arrest in 2001 was dismissed. As the 2001 case was dismissed, his arrests do not indicate a pattern

under MC 1. He has had no subsequent arrest in over four years. Thus he falls within MC 2. (the problem occurred a number of years ago, and there is no indication of a recent problem) and MC 3 (positive changes in behavior supportive of sobriety). Applicant's arrests and periods of heavy drinking occurred when he was in college.

Recently, he has addressed these alcohol concerns by substantially curtailing his drinking and changing his life-style. Now he is older, more mature, out of college, and gainfully employed. His college friend and current roommate confirms that Applicant has substantially lessened his drinking and has matured. While attendance at AA combined with abstinence would provide a stronger case, he provided evidence that his drinking did not affect his work life. His work performance has been excellent.

Thus, there is no indication of a recurring problem with alcohol. Significantly, he had an excellent record of performance on the job for the 18 months he worked for Employer #1 where he needed a security clearance. To his credit Applicant was viewed by his supervisor as functioning at a high level in the day-to-day production activities assigned to him. He had no attendance or tardiness issues and never came to work under the influence of alcohol or became intoxicated during work hours. Overall Applicant was an excellent employee at all times.

After considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant on subparagraphs 1.a. through 1.c.. under SOR Paragraph 1.

### **FORMAL FINDINGS**

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline G: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

## DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. Clearance is granted.

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.

**2. Conditions that could mitigate security concerns include:** 1. The alcohol related incidents do not indicate a pattern; 2. The problem occurred a number of years ago and there is no indication of a recent problem; 3. Positive changes in behavior supportive of sobriety; 4. Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed inpatient or outpatient rehabilitation along with after-care requirements, participates frequently in meetings of Alcoholics Anonymous or a similar organization, has abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credentialed medical professional or licensed clinical social worker who is a staff member of a recognized alcohol treatment program.